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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,043	10/15/2003	Mark Vella	22.1512	4994

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EXAMINER

NEUDER, WILLIAM P

ART UNIT PAPER NUMBER

3672

DATE MAILED: 12/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/686,043

Applicant(s)

VELLA ET AL.

Examiner

William P. Neuder

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 and 45-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8, 10-12, 17-20, 24, 25, 29-31 and 45-51 is/are rejected.
- 7) ☒ Claim(s) 7, 9, 13-16, 21-23 and 26-28 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/2/04, 9/27/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

Claim 48 is objected to because of the following informalities: In lines 4 and 5, no antecedent basis could be found for "the production tubing". Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3,10,11,17-20,48 and 49 are rejected under 35 U.S.C. 102(e) as being anticipated by Snider et al 6,386,288.

Snider discloses a method of fixing a tool 13,20 in a well. The tool is run into the well and then the tool is fixed in the well without pumping the fixing agent through a central passageway of the tool (see col. 7, lines 25-32). As to claims 2,18 and 49, fixing agent 19 is cement. As to claim 3, tool 20 is conveyed on casing 13. As to claim 10, the tool is run into the well and then the cement 19 is pumped into the annulus. As to claim 11, the cement is placed by reverse circulation. As to claim 17, tool 20 is run into the well on casing 13. Casing 13 is considered protection tubing. As to claim 19, tool

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20 is conveyed by casing 13. As to claim 20, tool 20 is a perforating tool that is fired to form perforations. As to claim 48, the well is produced after the perforator is fired.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 4-6,8,12,24,25,29-31 and 45-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Snider et al (applied above).

As to claim 4, Snider teaches placing the tool and then placing the fixing agent. However, Snider does teach that the casing can be reciprocated within the fixing agent. It would have been considered obvious to place the fixing agent and then the tool in view of Snider's teaching that the casing can be reciprocated in the fixing agent since one form of reciprocation would be to place the tool after the fixing agent. As to claim 5, while it is not clear if casing 13 is closed at the bottom, it would have been considered obvious to close the casing since the cement is placed in the annulus around the casing without pumping the cement through the casing because no cement is wanted inside the casing. As to claims 6 and 45, closed is considered sealing. As to claim 8, wellbore 2 is uncased. As to claim 12, closed is considered isolating. As to claims 24 and 25, perforator 20 is fired after cementing. As to claims 29 and 47, fixing agent 19 is cement. As to claim 30, a logging tool 50 can be fixed to the outside of the casing (see col. 7, lines 10-12). Snider is silent as to what characteristics the logging tool measures. It would have been considered obvious to measure the cementing characteristics since it is common to measure cementing characteristics. As to claim 31, it would have been considered obvious to use optical fibers since optical fibers are commonly used sensing or logging equipment. As to claim 46, tool 20 is a perforator.

Claims 30,31, 50 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Snider et al (described above) in view of Rayssiguier et al 6,302,203.

These claims all deal with sensing characteristics of the cement and the use of optical fibers. Snider (described above) discloses all of the claimed features including attaching a logging tool to the outside of the casing. Snider does not specifically disclose the type of characteristics being measured or the use of optical fibers. Rayssiguier et al teaches that it is known to use optical fibers to measure cementing characteristics including temperature (claim 51). It would have been considered obvious to use optical fibers to measure cementing characteristics as taught by Rayssiguier in the method of Snider since Snider teaches fixing a logging tool to the outside of the casing and Rayssiguier teaches that it is known to measure cementing characteristics using optical fibers.

Allowable Subject Matter


Claims 7,9,13-16,21-23 and 26-28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William P. Neuder whose telephone number is 571-272-7032. The examiner can normally be reached on Tuesday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David J. Bagnell can be reached on 571-272-6999. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


William P Neuder
Primary Examiner
Art Unit 3672

W.N.